

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 04-CR-241

NING WEN, et al,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S RECOMMENDATION ON MOTIONS
TO SUPPRESS FISA MATERIALS AND AFFIRMING MAGISTRATE JUDGE'S
ORDER REGARDING THE WEN ASSET FILE**

The defendant is charged by indictment with violation of export restrictions, related conspiracies, and money laundering activities. The charges are based in part upon evidence obtained from electronic surveillance that was authorized pursuant to the foreign intelligence surveillance act ("FISA"). 50 U.S.C. § 1801 *et seq.* The defendant has moved to suppress all evidence obtained as a result of the FISA orders. In addition, Wen seeks disclosure of the FBI asset file compiled during a time when he acted as an FBI informant.

Pursuant to the practice of the district, Wen's motions were referred to the magistrate judge assigned to the case. In response to the motions, Magistrate Judge Aaron E. Goodstein conducted an *in camera* review of both the FISA material file and the Wen asset file. Based upon his review, Judge Goodstein issued a recommendation and order on April 13, 2005. Judge Goodstein recommended that the motion to suppress information obtained pursuant to the order of the foreign intelligence surveillance court be denied. He ordered that the defendant's request for an evidentiary

hearing be denied and that all FISA materials would remain under seal and undisclosed to the defendant. In addition, Magistrate Judge Goodstein ordered that the Government's request for a protective order as to the Wen asset file be granted.

On April 28, 2005, Wen filed his objections to the recommendation and order of the magistrate judge. Although the objections are filed late, I have nevertheless reviewed the Magistrate Judge's recommendation and order and have considered the defendant's objections. I have also conducted an *in camera* review of the FISA materials and the Wen asset file in order to assist in that review. Based upon my own review of the files, and for the reasons stated in Magistrate Judge Goodstein's recommendation and order, I hereby adopt the recommendation of Magistrate Judge Goodstein and order that the defendant's motion to suppress evidence obtained as a result of orders issued under FISA be denied. I also affirm Magistrate Judge Goodstein's orders denying the defendant's request for an evidentiary hearing and maintaining all FISA materials under seal. Finally, upon my own review of the Wen asset file, I conclude that it does not contain any exculpatory material and I also affirm Magistrate Judge Goodstein's order granting the government's request for a protective order as to the file.

SO ORDERED.

Dated this 20th day of June, 2005.

s/ William C. Griesbach

William C. Griesbach
United States District Judge